IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8183 of 1990

For Approval and Signature:

HON'BLE MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CHAIRMAN, M.B. ARTS AND COMMERCE COLLEGE, GONDAL

Versus

THE SAURASHTRA UNIVERSITY AND OTHERS

Appearance:

1. Special Civil Application No. 8183 of 1990

MR PR NANAVATI for Petitioners.

DELETED for Respondent No. 1

MR AR THAKKAR for Respondent No. 2

MR AJ DESAI, AGP for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE K.A.PUJ

Date of decision: 24/12/2004

ORAL JUDGEMENT

The petitioner No.1 being the Executive head and the petitioner No.2 being the Principal of M.B. Arts & Commerce College, Gondal have filed this petition under

Article 226 of the Constitution of India challenging the order passed by the Accounts Officer on 19.12.1990 whereby it was communicated that the State Government would give grant only on the basis of the approved salary as decided by the Tribunal and since Mr. Vyas, the respondent No.1 herein was paid grant as per the approved salary, the demand made by the College could not be accepted.

2. Heard Mr. P.R. Nanavati, learned advocate appearing for the petitioners and Mr. A.R. Thakkar, learned advocate appearing for respondent No.2 i.e. Saurashtra University and Mr. A.J. Desai, learned A.G.P. for respondent No.3.

3. The respondent No.1 was deleted as per the order passed by this Court on 05.12.1990.

4. In the petition, it has been stated that the petitioners have filed S.C.A. No. 1023 of 1990 by which the petitioners have challenged the judgment and order passed by the Tribunal in so far as it was decided against the petitioners under Article 227 of the Constitution of India. It was also stated that the said petition was admitted and rule has been issued. However, the interim relief as prayed for was not granted by the order dated 31.07.1990 against which the petitioners have filed L.P.A. No. 275 of 1990.

5. Mr. P.R. Nanavati, learned advocate appearing for the petitioners has produced a copy of the order passed by this Court in S.C.A. No. 1023 of 1990 on 03.08.2004 wherein it is held that the petition was against the impugned order of the Tribunal by invocation of provisions of Article 227 of the Constitution of India and in that view of the matter, the Court found no substance and merits and the petition was dismissed.

6. The office has also placed a note that the papers of L.P.A. No. 275 of 1990 was sent to the Decree department on 26.12.1991 and hence, the said L.P.A. appears to have been disposed off in 1991 itself. Be that as it may, since S.C.A. No. 1023 of 1990 and L.P.A. No. 275 of 1990 were disposed of, the grievance raised by the petitioners in this consequential petition against the order based on the Tribunal's order has no survival value. Mr. Nanavati has submitted that as per the Tribunal's order, the petitioner has been paying the salary to the respondent No.1 and respondent No.1 has already retired long back. There is no question of sanctioning any grant in so far as the salary of

respondent No.1 is concerned.

7. In the above view of the matter and looking to the impugned order which is under challenge in the present petition, there is no substance in the present petition. The petition is accordingly dismissed. Rule discharged without any order as to costs.

[K.A. PUJ, J.]

#Savariya#

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